

MASSAGE THERAPISTS AND MASSAGE  
FACILITIES LICENSES

**DRAFT 5/22/03**

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**MASSAGE THERAPISTS AND MASSAGE FACILITIES LICENSES  
DRAFT 5/22/03**

**DIVISION 1. GENERAL PROVISIONS.**

**Sec. 16-201. Purpose.**

The purposes of this article are to:

(a) Enhance the professionalism of the massage service industry, to protect the health and safety of the public, by requiring MASSAGE THERAPISTS to have thorough knowledge of anatomy and physiology and an understanding of the relationship between the structure and the functions of the tissues being treated; and

(b) Assure the integrity of the massage service industry by reducing unprofessional practices.

**Sec. 16-202. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

AGENT means an individual designated by a publicly traded corporation to act on behalf of the corporation under this article. An AGENT shall be a bona fide resident of Arizona and a citizen or legal resident of the United States.

CLIENT means an individual who enters into an agreement for MASSAGE THERAPY for a fee, income or compensation of any kind within the city. [This definition replaces PATRON throughout the ordinance.]

CONTROL means the power to direct or cause the direction of the management and policies of an applicant, licensee or CONTROLLING PERSON, in any way. CONTROL is presumed to exist:

- (a) In a privately-held corporation, if a PERSON has the direct or indirect ownership of or power to vote ten percent (10%) or more of the outstanding voting securities of the applicant, licensee or CONTROLLING PERSON, or to CONTROL in any manner the election of one or more of the directors of the applicant, licensee or CONTROLLING PERSON. To determine the percentage of voting securities owned, controlled or held by a PERSON, there shall be added the voting securities of any other PERSON controlled by (i) that PERSON, or (ii) by an officer, partner, employee or representative of that PERSON or (iii) by a spouse, parent or child of that PERSON.
- (b) In a partnership, if the general partner or a limited partner holds ten percent (10%) or more of the voting rights of the partnership.
- (c) If a creditor of the applicant, licensee or CONTROLLING PERSON holds a beneficial interest in ten percent (10%) or more of the liabilities of the applicant, licensee or CONTROLLING PERSON.

- (d) In an on-site manager of a MASSAGE FACILITY who directs the daily operation of the MASSAGE FACILITY, whether or not the on-site manager has any ownership interest in the MASSAGE FACILITY.

CONTROLLING PERSON means a PERSON directly or indirectly possessing control of an applicant, licensee or MASSAGE FACILITY, and includes an AGENT and an on-site manager.

DIRECTOR means the city Financial Services Customer Service Director, or the DIRECTOR'S designee.

EMPLOYEE means any PERSON who performs any service at a MASSAGE FACILITY on a full-time, part-time or contract basis, whether or not the PERSON is designated an EMPLOYEE, independent contractor or otherwise. EMPLOYEE does not include a PERSON exclusively at the MASSAGE FACILITY for repair or maintenance of the MASSAGE FACILITY or for the delivery of goods to the licensee.

GENERAL MANAGER means the city General Manager of Financial Services, or the GENERAL MANAGERS designee.

MASSAGE FACILITY means any place of business where any MASSAGE THERAPY is practiced or administered.

MASSAGE THERAPY includes any of the following that are undertaken to increase wellness, relaxation, stress reduction, pain relief and postural improvement, or provide general or specific therapeutic benefits, including, but not limited to stroking, friction, kneading, rolling, vibrating, cupping, petrissage, rubbing, effleurage, tapotement, and any other non-incidental touching such as:

- (a) The manual application of compression, stretch, vibration or mobilization of the organs and tissues beneath the dermis, including the components of the musculoskeletal system, peripheral vessels of the circulatory system and fascia, when applied primarily to parts of the body other than the hands, feet and head.
- (b) The manual application of compression, stretch, vibration or mobilization using the forearms, elbows, knees or feet or handheld mechanical, electrical, water or vibratory devices.
- (c) Any combination of range of motion, directed, assisted or passive movements of the joints.
- (d) Hydrotherapy, including, but not limited to tub, shower or cabinet baths, and the application of water, hot and cold packs or wraps.
- (e) Any other therapeutic application of wraps, oils, alcohol rubs, skin brushing, salt glows and similar applications of products to the skin; and colon irrigation.

MASSAGE THERAPIST means a PERSON who practices or administers any MASSAGE THERAPY for a fee, income or compensation of any kind, within the city.

PERSON means a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual. It includes a trustee, receiver, an assignee, or similar representative.

#### **Sec. 16-203. Administration.**

- (a) Except as otherwise specifically provided, the GENERAL MANAGER and the Chief of Police shall administer this article.

(b) License applications under this article shall be submitted to the DIRECTOR, who has the authority to issue, deny, renew, or revoke licenses and identification cards under this article and article I of this chapter.

**Sec. 16-204. Licenses generally; minimum requirements.**

(a) The licenses required by this article are in addition to any other applicable licenses or permits required by the city, county or state. PERSONS and MASSAGE FACILITIES licensed under this article shall comply with all other applicable ordinances and laws, including the city zoning ordinance.

(b) All licenses issued under this article are non-transferable between PERSONS. However, a licensed MASSAGE FACILITY may change locations as provided by this article.

(c) No more than one MASSAGE FACILITY license shall be issued for one street address.

(d) All licenses issued under this article shall be for a period of one (1) year, but may be renewed under this article.

(e) The DIRECTOR shall have sixty (60) days from the date of the completion of all application materials and requirements to either issue or deny any license or identification card subject to this article. The issuance of any license or identification card shall in no way be construed as a waiver of any right of denial or revocation the city may have at the time of issuance.

(f) An applicant for a license under this article shall meet the following minimum requirements, to the satisfaction of the DIRECTOR:

(1) The applicant shall be at least eighteen (18) years old;

(2) The applicant shall be a citizen or a legal resident of the United States, and eligible to work in the United States;

(3) The applicant shall not, within five (5) years preceding the application date, have been convicted of an offense described in article I of this chapter making an applicant ineligible to reapply for a license for five (5) years;

(4) The applicant shall not, within five (5) years preceding the application date, (A) have voluntarily surrendered any license to administer MASSAGE THERAPY as a result of or while under investigation; (B) have had a license to administer MASSAGE THERAPY or similar license denied or revoked by a political subdivision of Arizona, or a regulatory board in another United States jurisdiction for an act that occurred in that jurisdiction that would be a violation under this article;

(5) The applicant shall not be a registered sex offender or required by law to register as a sex offender; and

(6) The applicant's record shall be free of all reasons to deny an application under this article and article I of this chapter.

**Sec. 16-205. Fingerprinting.**

All applicants for licenses or renewal licenses under this article and all applicant's CONTROLLING PERSONS and AGENTS shall personally appear at the office of the DIRECTOR for the purpose of being fingerprinted. The police department shall conduct a background investigation of the applicant, applicant's CONTROLLING PERSONS and AGENTS and shall make a recommendation based on the investigation within the period allowed to the DIRECTOR to issue or deny a license.

## **DIVISION 2. MASSAGE FACILITIES LICENSES.**

### **Sec. 16-206. License required.**

A PERSON desiring to operate the business of a MASSAGE FACILITY shall obtain a license under this article.

### **Sec. 16-207. Fees.**

An applicant and/or licensee shall pay the following fees, as adopted by the city council:

(a) An applicant shall submit a non-refundable application fee of one hundred dollars (\$100) for each license and renewal license under this article.

(b) If a licensee is delinquent in filing for a renewal license under this article, (later than sixty (60) days before the expiration of the license currently in effect), the licensee shall submit a non-refundable late application fee of one hundred eighty dollars (\$180), in addition to the non-refundable application fee of one hundred dollars (\$100), for each license to be renewed.

(c) At the time the fingerprints are taken, the applicant shall pay the DIRECTOR a fee covering the cost of obtaining criminal history information for each set of fingerprints required under this article.

(d) An annual license fee of two hundred sixty dollars (\$260) for each license shall be paid before the license is issued.

(e) A change in location fee of fifty dollars (\$50) for a licensed MASSAGE FACILITY shall be paid upon filing for approval to change the location of the MASSAGE FACILITY.

(f) Upon request and payment of the fee of ten dollars (\$10), the DIRECTOR shall issue a duplicate license to a licensee whose license has been lost, stolen or destroyed.

### **Sec. 16-208. License application.**

An applicant shall file an application for a MASSAGE FACILITY on a form prescribed by the DIRECTOR. **An applicant shall provide a list of all EMPLOYEES at the MASSAGE FACILITY, including the EMPLOYEE'S full name, date of birth, home address and telephone number and employment position; and the license number and license expiration date for each MASSAGE THERAPIST.** An applicant shall provide such other identification and information as the police department may require to aid in verifying the application.

### **Sec. 16-209. Information update.**

(a) An applicant or licensee shall give written notice to the DIRECTOR of any material changes in information submitted in connection with a license or renewal application for a MASSAGE FACILITY, within ten (10) days of any such change. Material changes include, but are not limited to, information regarding:

- (1) Legal organization of the business;
- (2) Applicant's, licensee's, AGENT'S, and CONTROLLING PERSON'S home address, business mailing address and telephone number;
- (3) Identification of the on-site MASSAGE FACILITY manager, including the manager's full legal name, and home address, business mailing address and telephone number;
- (4) Employee's immigration or authorized work status;
- (5) Business name of the MASSAGE FACILITY; and
- (6) Requests from the DIRECTOR.

(b) Any information update submitted under this section shall not remove the responsibility associated with the sale or transfer of a MASSAGE FACILITY.

**Sec. 16-210. MASSAGE FACILITY license; special requirements.**

No MASSAGE FACILITY license shall be issued or renewed unless the applicant certifies that the site of the proposed or existing facility complies with all of the following minimum requirements.

(a) Minimum lighting requirements shall be provided in accordance with chapter 31 of the city code. In addition, at least one (1) artificial light of not less than **forty (40)** watts, which is not shaded to significantly decrease luminosity, shall be provided in each room or quarters where MASSAGE THERAPY is performed on CLIENTS and shall be in use whenever MASSAGE THERAPY is being performed;

(b) Minimum ventilation shall conform with chapter 31 of the city code;

(c) Adequate equipment shall be provided for disinfecting and sterilizing instruments used in administering or practicing any MASSAGE THERAPY;

(d) Closed cabinets shall be provided and used for the storage of clean linens;

(e) Except when the CLIENT is fully clothed and the MASSAGE THERAPY IS administered in a full public view, dressing, locker and toilet facilities, including hot and cold running water, shall be provided for CLIENTS as follows: A minimum of one (1) dressing room containing a separate locker for each CLIENT, which locker shall be capable of being locked, and a minimum of one (1) toilet and one (1) wash basin. The toilet and wash basin shall be located in the MASSAGE FACILITY, or in a public restroom, not used in connection with a commercial business, within 150 feet of the MASSAGE FACILITY. If both male and female CLIENTS are to be served simultaneously at the MASSAGE FACILITY, however, a separate massage room or rooms, and separate dressing facilities shall be provided for male and female CLIENTS.

(f) All walls, ceilings, floors, pools, showers, bathtubs, hot tubs, steam rooms and all other physical facilities for the MASSAGE FACILITY shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, steam or vapor cabinets, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.

(g) Clean and sanitary towels shall be provided for each CLIENT of the MASSAGE FACILITY. Each table used for MASSAGE THERAPY shall be provided with a clean and sanitary towel, paper towel or sheet for each CLIENT.

(h) Compliance with all applicable provisions of the city fire code and zoning ordinance.

### **DIVISION 3. NON-ACCEPTANCE, DENIAL, REVOCATION AND APPEAL OF LICENSES.**

#### **Sec. 16-211. Non-acceptance and denial of application.**

(a) The DIRECTOR shall not accept an application for a license if:

(1) The application is incomplete;

(2) The application shows that the applicant or any CONTROLLING PERSON has been convicted of a criminal action that would be grounds for denial of the application; or

(3) The DIRECTOR knows that the applicant or any CONTROLLING PERSON has been convicted of a criminal action that would be grounds for denial of the application.

(b) The DIRECTOR shall deny a license if:

(1) All requirements for the application have not been completed;

(2) The applicant is a corporation which is not qualified to transact business in Arizona;

(3) The applicant or the MASSAGE FACILITY is delinquent in payment to the city of taxes, fees, fines, or penalties imposed upon the applicant or MASSAGE FACILITY or arising out of any other business activity owned or operated by the applicant or the MASSAGE FACILITY and licensed by the city;

(4) The applicant or the MASSAGE FACILITY is in violation of any applicable provisions of ordinances and regulations of the city, including article I of this chapter, relating to the business or occupation to be conducted under the license;

(5) The applicant or any CONTROLLING PERSON has been convicted of a criminal action that would be grounds for denial of the application.

#### **Sec. 16-212. Revocation.**

(a) The DIRECTOR shall revoke a license issued under this article if the licensee:

(1) Fails to maintain the minimum or special requirements for a MASSAGE FACILITY under this article.



(2) Commits, twice or more, in any consecutive twelve (12) months, any unlawful act designated a class 3 misdemeanor under this article;

(3) Commits any unlawful act designated a class 1 misdemeanor under this article;

(4) Commits any violation of a provision of article I of this chapter;

(5) Permits, twice or more, in any consecutive twelve (12) months, an EMPLOYEE to engage in acts of solicitation or prostitution; or

**(6) Knowingly permits an EMPLOYEE to engage in acts of solicitation or prostitution.**

(b) Revocation procedures shall be as set forth in article I of this chapter.

**Sec. 16-213. Application after non-acceptance, denial or revocation of license.**

(a) If an application is not accepted because it is incomplete, an applicant may resubmit the application upon completion. **[Deleted references to reapplication after an outstanding arrest warrant or pending criminal action.]**

(b) Except as provided in subsections (c) and (d) below, after an application has been denied or a license has been revoked, no application shall be accepted for a MASSAGE FACILITY with the same business name, or at the same location, for one (1) year after the date of the denial or revocation.

(c) Except as provided in subsection (d) below, after an application has been denied or a license has been revoked, no application shall be accepted for a MASSAGE FACILITY or a MASSAGE THERAPIST license from the same applicant, or from a CONTROLLING PERSON of the applicant, for two (2) years after the date of the denial or revocation.

(d) After an application has been denied or a license has been revoked for the conviction of an offense described in article I of this chapter making an applicant ineligible to reapply for a license for five (5) years from the date of conviction, no application shall be accepted as set forth in article I of this chapter.

**Sec. 16-214. Review and appeals.**

Any applicant or licensee aggrieved by a decision to deny or revoke a license under this article, may appeal the decision under the provisions of article I of this chapter.

**DIVISION 4. OPERATIONS AND INSPECTIONS.**

**Sec. 16-215. Display of license.**

The MASSAGE FACILITY license shall be conspicuously displayed at the MASSAGE FACILITY.

**Sec. 16-216. Required logs.**

(a) **Except as provided below**, a MESSAGE FACILITY licensee shall maintain at the licensed MESSAGE FACILITY a current log of all EMPLOYEES at the licensed MESSAGE FACILITY, including:

(1) Each EMPLOYEE'S full legal name, date of birth, home address and telephone number, employment position, date first began service and when terminated service, and

(2) Each MESSAGE THERAPIST'S license number and date of expiration of license.

**(b) If a MESSAGE FACILITY employs more than twenty-five (25) MESSAGE THERAPISTS, the MESSAGE FACILITY licensee shall maintain:**

**(1) A current log of all EMPLOYEES as required in subsection (a) above except that the log may be maintained at a central office or human resources department, and**

**(2) At the licensed MESSAGE FACILITY, a current log of all MESSAGE THERAPISTS employed at the licensed MESSAGE FACILITY, including all the information required in subsection (a) above.**

(c) The EMPLOYEE log shall at all times reflect the names of EMPLOYEES for the previous one (1) year. **Wherever the EMPLOYEE log is located**, the EMPLOYEE log shall be subject to inspection upon request, during normal business hours.

(d) A MESSAGE FACILITY licensee shall maintain at the licensed MESSAGE FACILITY a log of all MESSAGE THERAPY administered at the facility. The log shall contain the following information: date, time and type of each MESSAGE THERAPY administered, name and address of the CLIENT, and name of the EMPLOYEE administering the MESSAGE THERAPY. The log shall be retained for a minimum of one (1) year following any MESSAGE THERAPY. The MESSAGE THERAPY log shall be subject to inspection upon request, during normal business hours.

#### **Sec. 16-217. Inspections.**

(a) Each MESSAGE FACILITY, its equipment, logs and methods of operation shall be open to inspection during normal business hours by the police or other city staff designated by the DIRECTOR.

**(b) Each MESSAGE FACILITY, within ten (10) days of receiving a written request from the city, shall submit to the police or other city staff designated by the DIRECTOR, a list of MESSAGE THERAPISTS employed at the MESSAGE FACILITY, including the information required in subsection 16-216(a).**

#### **DIVISION 5. CHANGES TO LICENSES; RENEWAL.**

#### **Sec. 16-218. Change in location of business.**

A change in location of a licensed MESSAGE FACILITY shall be approved by the DIRECTOR before transacting business at the new location. The DIRECTOR shall approve a change in location upon:

(a) Completion of an application for change in location of a MESSAGE FACILITY;

(b) Compliance with this article and all other city ordinances; and

(c) Payment of the change in location fee to the DIRECTOR.

**Sec. 16-219. Sale or transfer of MASSAGE FACILITY.**

Upon the sale or transfer of any CONTROLLING PERSON'S interest in a MASSAGE FACILITY, the license therefor shall be null and void. A PERSON desiring to continue to operate the MASSAGE FACILITY shall file a new application under this article.

**Sec. 16-220. License renewal.**

(a) A licensee applying for license renewal shall:

(1) Submit to the DIRECTOR a completed renewal application form and fee for each license being renewed;

**(2) Provide a list of all EMPLOYEES at the MASSAGE FACILITY, including the EMPLOYEE'S full name, date of birth, home address and telephone number and employment position; and the license number and license expiration date for each MASSAGE THERAPIST**

(3) Comply with the fingerprinting requirements of this article.

(b) To assure continued operation of the MASSAGE FACILITY without an unlawful lapse in the license, a licensee applying for license renewal shall file a renewal application with the DIRECTOR no later than sixty (60) days before the expiration of the license currently in effect. If a licensee applies for license renewal later than sixty (60) days before the expiration of the license currently in effect, an additional non-refundable late application fee will be charged as set forth in this article.

**DIVISION 6. UNLAWFUL ACTS; PENALTIES.**

**Sec. 16-221. Unlawful acts; penalties.**

(a) It shall be unlawful for:

(1) Any PERSON to operate a MASSAGE FACILITY without first obtaining and maintaining the license required by this article.

(2) Any PERSON to employ as a MASSAGE THERAPIST any PERSON who does not hold a valid MASSAGE THERAPIST license as required by this article.

(3) Any PERSON licensed under this article to operate under any name or conduct business under any designation not specified in such license, or to operate a MASSAGE FACILITY under a false or assumed name when the use of such false or assumed name is not otherwise permitted by law.

(4) Any PERSON licensed as provided in this article to remain open or administer MASSAGE THERAPY at any time between the hours of **10:00** p.m. and 5:00 a.m. When a MASSAGE FACILITY constitutes only a portion of a larger business, not subject by law to operation during specific hours, this limitation shall apply only to that area that is customarily used for administering MASSAGE THERAPY.

(5) Any PERSON to operate a MASSAGE FACILITY on the same premises where there is also a photography studio, model studio, art studio, telephone answering service, motion picture theater, sexually-oriented business, or a cocktail lounge, except those operated incidental to a hotel, motel or resort.

(6) Any PERSON to operate more than one (1) MASSAGE FACILITY at the same physical address.

(7) Any person to fail or refuse to permit a lawful inspection of a MASSAGE FACILITY.

(8) Any PERSON, except an AGENT for a publicly traded corporation, to fail to disclose all CONTROLLING PERSON(s) on an application for MASSAGE FACILITY license.

(9) An applicant to knowingly file a MASSAGE FACILITY or MASSAGE THERAPIST license application or supporting document which contains material information which is false.

(10) Any MASSAGE FACILITY licensee to intentionally fail to maintain, retain and produce the logs required by this article. Intent is presumed to exist if the licensee employs any unlicensed MASSAGE THERAPIST or has no logs.

(11) Any MASSAGE FACILITY licensee to fail to display his or her license as required by this article.

(12) Any MASSAGE FACILITY licensee to fail to maintain, retain and produce the logs required by this article.

(13) Any licensee to fail to notify the DIRECTOR of any material changes in information submitted in connection with a license or renewal application.

(b) A violation of subsections (a)(1) through (10) above shall be punishable as a class 1 misdemeanor with a minimum mandatory penalty of two hundred dollars (\$200) per violation. A violation of subsections (a)(11) through (13) above shall be punishable as a class 3 misdemeanor. Each day that a violation of this section continues shall constitute a separate offense.

(c) Any MASSAGE FACILITY or business operated contrary to this article is unlawful and a public nuisance. The city may, in addition to or in lieu of the remedies under this article, commence one or more actions to abate the MASSAGE FACILITY or business and/or to restrain any PERSON from operating a MASSAGE FACILITY or business contrary to this article.

(d) The revocation of a license does not constitute a defense against prosecution for any act or omission made unlawful by this article.

## **DIVISION 7. MASSAGE THERAPISTS.**

### **Sec. 16-222. Definitions.**

The following additional terms, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

**[Deleted definitions of Board of Massage Examiners and Examinations Guidelines Date.]**

LICENSED SCHOOL OF MASSAGE THERAPY means any institution of learning that meets the following criteria and the requirements of this article:

- (a) In Arizona: (1) teaches the theory, method and performance of massage therapists, and (2) has been approved by the Arizona State Board for Private Postsecondary Education.
- (b) In any other state: (1) teaches the theory, method and performance of massage therapists, (2) has been approved by the equivalent of the Arizona State Board for Private Postsecondary Education, and (3) is licensed by the state or subdivision where it is located.
- (c) In Arizona and any other state: (1) offers a curriculum for MASSAGE THERAPISTS, and (2) is a college or university accredited by an accrediting agency recognized by the United States Department of Education or the Council on Postsecondary Accreditation.
- (d) Outside the United States: (1) offers a curriculum for MASSAGE THERAPISTS, and (2) is a college or university affiliated with a United States college or university accredited by an accrediting agency recognized by the United States Department of Education or the Council on Postsecondary Accreditation.

NATIONAL EXAMINATION means an examination administered by a national board approved by the DIRECTOR.

NATIONAL CERTIFICATION means the certification issued by a national board or other organization approved by the DIRECTOR.

### **Sec. 16-223. License required.**

A PERSON desiring to engage in the occupation of MASSAGE THERAPIST shall obtain a license under this article. A PERSON desiring to both operate a MASSAGE FACILITY and engage in the occupation of MASSAGE THERAPIST shall obtain a license for each activity.

### **Sec. 16-224. Exemptions.**

(a) This article shall not apply to:

(1) A health care professional who is licensed by the state of Arizona and who practices within the scope of that license, when the professional does not claim to be a MASSAGE THERAPIST;

(2) PERSONS employed or acting as trainers for any bona fide amateur, semi-professional or professional athletic team or athlete;

(3) PERSONS authorized by the laws of Arizona as barbers or cosmetologists, provided their activity is limited to the head, face, neck, hands and feet;

(4) Massage students performing clinical practicum at a LICENSED SCHOOL OF MASSAGE THERAPY, if the student receives no compensation, including tips and gratuities.

(5) PERSONS wholly engaged in specialized weight reduction techniques where touching of the body is incidental to the procedure.

(b) Each exemption is solely for those activities performed in the course of the bona fide practice of the business or profession of the PERSON exempted.

**Sec. 16-225. Fees.**

An applicant and/or licensee shall pay the following fees, as adopted by the city council:

(a) An applicant shall submit a non-refundable application fee of one hundred ten dollars (\$110) for each license and renewal license under this article.

**[Deleted late filing penalty fee.]**

(b) At the time the fingerprints are taken, the applicant shall pay the DIRECTOR a fee covering the cost of obtaining criminal history information for each set of fingerprints required under this article.

(c) Upon written request and payment of the fee of ten dollars (\$10), the DIRECTOR shall issue a duplicate identification card to a licensee whose identification card has been lost, stolen or destroyed.

**[Deleted examinations fees.]**

**Sec. 16-226. License application; minimum requirements.**

An applicant shall file an application for a MASSAGE THERAPIST on a form prescribed by the DIRECTOR. An applicant shall provide such other identification and information as the police department may require to aid in verifying the application. An applicant for a MASSAGE THERAPIST license under this article shall meet the following minimum requirements, to the satisfaction of the DIRECTOR:

(a) The applicant shall be at least eighteen (18) years old;

(b) The applicant shall possess a high school diploma or general equivalency diploma or similar document or certificate;

(c) The applicant shall be a citizen or a legal resident of the United States, and eligible to work in the United States;

**[Moved reference to NATIONAL EXAMINATION. See Sec. 16-227(b).]**

(d) The applicant shall not, within five (5) years preceding the application date, have been convicted of an offense described in article I of this chapter making an applicant ineligible to reapply for a license for five (5) years;

(e) The applicant shall not, within five (5) years preceding the application date, (A) have voluntarily surrendered any license to administer MASSAGE THERAPY as a result of or while under investigation; (B) have had a license to administer MASSAGE THERAPY or similar license denied or revoked by a political subdivision of Arizona, or a regulatory board in another United States jurisdiction for an act that occurred in that jurisdiction that would be a violation under this article;

(f) The applicant shall not be a registered sex offender, nor required by law to register as a sex offender; and

(g) The applicant's record shall be free of all reasons to deny an application under this article and article I of this chapter.

**Sec. 16-227. MASSAGE THERAPIST license; special requirements.**

(a) A MASSAGE THERAPIST who is licensed to practice MASSAGE THERAPY in the city as of the effective date of this article may continue to practice subject to the renewal provisions of this article.

(b) A MASSAGE THERAPIST who is not licensed to practice MASSAGE THERAPY in the city as of the effective date of this article, in addition to the minimum requirements for a massage therapist license above, shall have passed the NATIONAL EXAMINATION and attained and maintained his or her NATIONAL CERTIFICATION before applying for a massage therapist license.

[Deleted references to Board of Massage Examiners and local examinations.]

**Sec. 16-228. Information update.**

An applicant or licensee shall give written notice to the DIRECTOR of any material changes in information submitted in connection with his or her license or renewal application for a MASSAGE THERAPIST, within ten (10) days of any such change. Material changes include, but are not limited to, information regarding:

(a) Full legal name;

(b) Applicant's and licensee's business mailing address, home address and telephone number;

(c) Applicant's and licensee's immigration and authorized work status;

(d) Any revocation or suspension of a regulatory license issued by Arizona or a political subdivision;

(e) Any event that would cause the DIRECTOR to deny or revoke the license under this article; and

(f) Requests from the DIRECTOR.

**Sec. 16-229. Non-acceptance and denial of application.**

(a) The DIRECTOR shall not accept an application for a license if:

(1) The application is incomplete, **including, after the effective date of this article, lack of proof that the applicant has passed the NATIONAL EXAMINATION and attained and maintained his or her NATIONAL CERTIFICATION;**

(2) The application shows that the applicant **has been convicted of a** criminal action that would be grounds for denial of the application; or

(3) The DIRECTOR knows that the applicant **has been convicted of a** criminal action that would be grounds for denial of the application.

(b) The DIRECTOR shall deny a license if:

(1) All requirements for the application have not been completed;

(2) The applicant is delinquent in payment to the city of taxes, fees, fines, or penalties imposed upon the applicant or arising out of any other business activity owned or operated by the applicant and licensed by the city;

(3) The applicant is in violation of any applicable provisions of ordinances and regulations of the city, including article I of this chapter, relating to the business or occupation to be conducted under the license; or

(4) The applicant **has been convicted of a** criminal action that would be grounds for denial of the application.

**[Deleted reference to failing examinations.]**

#### **Sec. 16-230. Revocation.**

(a) The DIRECTOR shall revoke a license issued under this article if the licensee:

(1) Fails to maintain the minimum or special requirements for a MASSAGE THERAPIST under this article;

(2) Commits, twice or more, in any consecutive twelve (12) months, any unlawful act designated a class 3 misdemeanor under this article;

(3) Commits any unlawful act designated a class 1 misdemeanor under this article; or

(4) Commits any violation of a provision of article I of this chapter.

(b) Revocation procedures shall be as set forth in article I of this chapter.

#### **Sec. 16-231. Application after non-acceptance, denial, revocation or lapse of license.**

(a) If an application is not accepted because it is incomplete, an applicant may resubmit the application upon completion. **[Deleted references to reapplication after an outstanding arrest warrant or pending criminal action.]**

**{Deleted reference to retaking failed examinations.}**



(b) Except as provided in subsection (c) below, after an application has been denied or a license has been revoked, no application shall be accepted for a MASSAGE THERAPIST license from the same applicant for two (2) years after the date of the denial or revocation.

(c) After an application has been denied or a license has been revoked for the conviction of an offense described in article I of this chapter making an applicant ineligible to reapply for a license for five (5) years from the date of conviction, no application shall be accepted as set forth in article I of this chapter.

(d) If a license application is denied, revoked or lapsed, the applicant must pass the NATIONAL EXAMINATION and attain and maintain his or her NATIONAL CERTIFICATION, and fulfill all other requirements of a new applicant before a new license will be issued. **[Deleted reference to local examinations.]**

#### **Sec. 16-232. License renewal.**

(a) A licensee applying for license renewal shall:

(1) Submit to the DIRECTOR a completed renewal application form and fee for each license being renewed; and

(2) Comply with the fingerprinting requirements of this article.

(b) To assure continued use of the MASSAGE THERAPIST license without an unlawful lapse, a licensee applying for license renewal shall file a renewal application with the DIRECTOR before the expiration of the license currently in effect. **[Deleted requirement to submit renewal 60 days before expiration of current license.]**

#### **Sec. 16-233. Display of licensee identification card.**

Each MASSAGE THERAPIST shall conspicuously display his or her licensee identification card on his or her outer clothing at all times during which he or she is available for or administering MASSAGE THERAPY. **[Deleted requirement to wear ID on front of clothing.]**

#### **Sec. 16-234. Required logs.**

All MASSAGE THERAPISTS shall maintain a log of all MASSAGE THERAPY administered. The log shall contain the following information: date, time and type of each MASSAGE THERAPY administered, name and address of the CLIENT, and the address where each MASSAGE THERAPY was administered. The log shall be retained for a minimum of one (1) year following any MASSAGE THERAPY. The MASSAGE THERAPY log shall be subject to inspection upon request, at the police department or other mutually agreeable location.

#### **Sec. 16-235. Unlawful acts; penalties.**

(a) In addition to the unlawful acts above, it shall be unlawful for:

(1) Any PERSON to practice or administer any MASSAGE THERAPY, or to offer to perform any MASSAGE THERAPY, for a fee, income or compensation of any kind, without first obtaining and maintaining the license required by this article.

(2) Any PERSON to engage in the occupation of MASSAGE THERAPIST under a false or assumed name when the use of such false or assumed name is not otherwise permitted by law.

(3) Any licensed MASSAGE THERAPIST to administer MASSAGE THERAPY for a fee, income or compensation of any kind:

(A) In a manner or under circumstances intended to arouse, appeal to or gratify sexual desires;

(B) To a CLIENT whose genital organs **and anus** are not covered by opaque material;

(C) While dressed in such a way that the genital organs, buttocks or female breasts are not covered by opaque material;

(D) To touch in any way the CLIENT'S genital organs, **or without the CLIENT'S written consent, to touch** any portion of the breasts of a female CLIENT;

(E) To request, compel or entice any CLIENT to touch or expose his/her genitals as a condition of administering any MASSAGE THERAPY;

(F) To request, compel or entice any CLIENT to place the hand of an EMPLOYEE on the genitals of the CLIENT as a condition of administering any MASSAGE THERAPY;

(G) To allow any PERSON to intentionally view the genital area of a CLIENT; or

(H) To allow one CLIENT to view the MASSAGE THERAPY of another CLIENT without the latter's consent.

**(4) Any PERSON licensed as provided in this article to remain open or administer MASSAGE THERAPY at any time between the hours of 10:00 p.m. and 5:00 a.m.**

(5) Any MASSAGE THERAPIST to administer MASSAGE THERAPY in the MASSAGE THERAPIST'S home or other place not provided by the CLIENT, without having a MASSAGE FACILITY license for that home or other place.

(6) Any MASSAGE THERAPIST licensee to intentionally fail to maintain, retain and produce the logs required by this article. Intent is presumed to exist if the licensee has no logs.

(7) Any MASSAGE THERAPIST licensee to fail to maintain, retain and produce the logs required by this article

(8) Any licensee to fail to carry his or her licensee identification card, as required by this article.

(b) A violation of subsections (a)(1) through **(a)(6)** above shall be punishable as a class 1 misdemeanor with a minimum mandatory penalty of two hundred dollars (\$200) per violation. A violation of subsection **(a)(7) or (a)(8)** above shall be punishable as a class 3 misdemeanor. Each day that a violation of this section continues shall constitute a separate offense.

(c) Any MASSAGE THERAPIST who operates contrary to this article is engaging in unlawful activities and is a public nuisance. The city may, in addition to or in lieu of the remedies under this article, commence one or more actions to restrain the unlawful activities of the MASSAGE THERAPIST.

(d) The revocation of a license does not constitute a defense against prosecution for any act or omission made unlawful by this article.

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